

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34701

CSX TRANSPORTATION, INC.
TRACKAGE RIGHTS IN MEMPHIS, TENNESSEE
ILLINOIS CENTRAL RAILROAD COMPANY

VERIFIED NOTICE OF EXEMPTION

J. Michael Cavanaugh
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Counsel for
CSX Transportation, Inc.

Dated: May 3, 2005

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Comes now CSX Transportation, Inc. ("CSXT"), by and through its undersigned attorney, and files this Verified Notice of Exemption for CSXT to acquire overhead trackage rights over a railroad line owned by another rail carrier. Although the acquisition of such rights may be subject to the jurisdiction of the Board pursuant to 49 U.S.C. §11323, this particular grant of rights falls within the enumerated exemptions set forth in 49 C.F.R. §1180.2(d). As such, CSXT files this Verified Notice of Exemption pursuant to the Board's regulations at 49 C.F.R. §1180.4(g).

This Verified Notice of Exemption relates to the acquisition of overhead trackage rights by CSXT over the rail line of (1) Illinois Central Railroad Company, a wholly owned subsidiary of Canadian National Railway Company, ("CN") between CN's Aulon Interlocking, Milepost 390 on the Fulton Subdivision and Milepost 11.00 on the Yazoo Subdivision, approximately 200

feet past the south leg of wye switch into the Memphis Intermodal Terminal in Frank C. Pidgeon Industrial Park ("Memphis Facility"), a distance of approximately twelve miles, all in the State of Tennessee, including the CN yard lead and yard tracks required to access the Memphis Facility; and (2) the track commonly referred to as the old Birmingham Steel lead (owned by the Shelby County Port Authority and operated by CN), which begins at CN's Milepost 8.7, continuing westward to and beyond the new turnout to the Memphis Facility, a distance of approximately one thousand (1,000) feet (hereinafter collectively "the line"). In accordance with the aforesaid regulations, CSXT makes the following responses:

RESPONSE TO 49 C.F.R. §1180.6(a):

1. Transaction Summary (49 C.F.R. 1180.6(a)(1)(i))

CSXT's affiliate, CSX Intermodal ("CSXI"), requires the use of the line for movement of CSXI intermodal traffic between the Aulon Interlocking and the Memphis Facility.

2. Applicant (49 C.F.R. 1180.6(a)(1)(i))

CSX Transportation, Inc.
500 Water Street
Jacksonville, Florida 32202
(904)359-3100

3. Applicant's Counsel (49 C.F.R. 1180.6(a)(1)(i))

J. Michael Cavanaugh
Holland & Knight
2099 Pennsylvania Ave., NW
Suite 100
Washington, D.C. 20006
(202) 955-3000

4. Proposed Consummation Date (49 C.F.R. §1180.6(a)(1)(ii))

The proposed consummation date of this transaction is May 10, 2005.

5. Purpose of Transaction (49 C.F.R. §1180.6(a)(1)(iii))

The purpose of this transaction is to allow CSXI to achieve operating efficiencies and improve customer service.

6. List of States (49 C.F.R. §1180.6(a)(5))

CSXT owns or operates on rail lines located in the states of Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, the Province of Ontario, Canada, and the District of Columbia.

7. Map (49 C.F.R. §1180.6(a)(6))

A map depicting the line is attached hereto as Exhibit A.

8. Trackage Rights Agreement (49 C.F.R. §1180.6(a)(7))

The parties have entered into a Trackage Rights Agreement, which is attached hereto as Exhibit B.

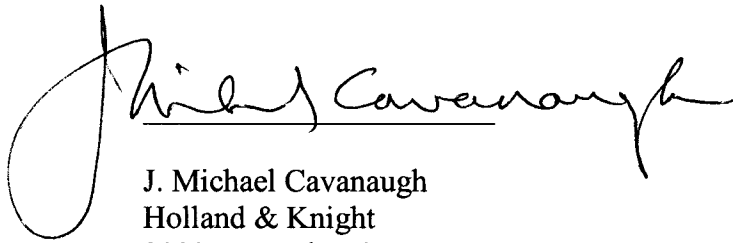
9. Caption Summary (49 C.F.R. §1180.4(g)(2))

The Caption Summary is attached hereto as Exhibit C.

LABOR PROTECTION

CSXT understands that any employees adversely affected by the trackage rights are entitled to protection under the conditions set forth in Norfolk and Western Ry. Co.-Trackage Rights-BN, 354 I.C.C. 605 (1978), as modified by Mendocino Coast Railway, Inc., 360 I.C.C. 653 (1980).

Respectfully submitted,

A handwritten signature in black ink, reading "J. Michael Cavanaugh". The signature is written in a cursive style with a large, looping initial "J".

J. Michael Cavanaugh
Holland & Knight
2099 Pennsylvania Ave., NW
Suite 100
Washington, D.C. 20006
(202) 955-3000

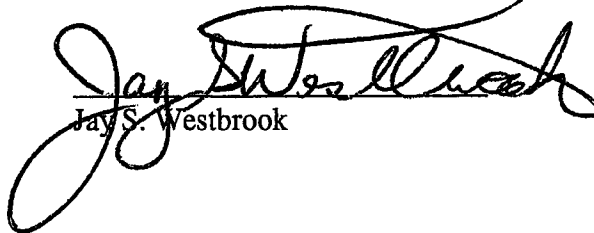
Counsel for
CSX Transportation, Inc.

Dated: May 3, 2005

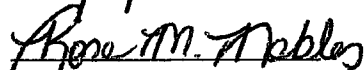
VERIFICATION

STATE OF FLORIDA)
)
COUNTY OF DUVAL)

Jay S. Westbrook, being duly sworn, deposes and says that he is the Assistant Vice President Passenger and Joint Facilities, of CSX Transportation, Inc. and that he has read the foregoing, knows the contents thereof, and that the same are true as stated to the best of his knowledge, information and belief.


Jay S. Westbrook

Subscribed and sworn to
Before me this 2 day
Of May, 2005


Notary Public

My Commission Expires:

November 15, 2005

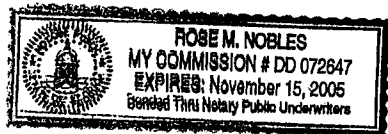
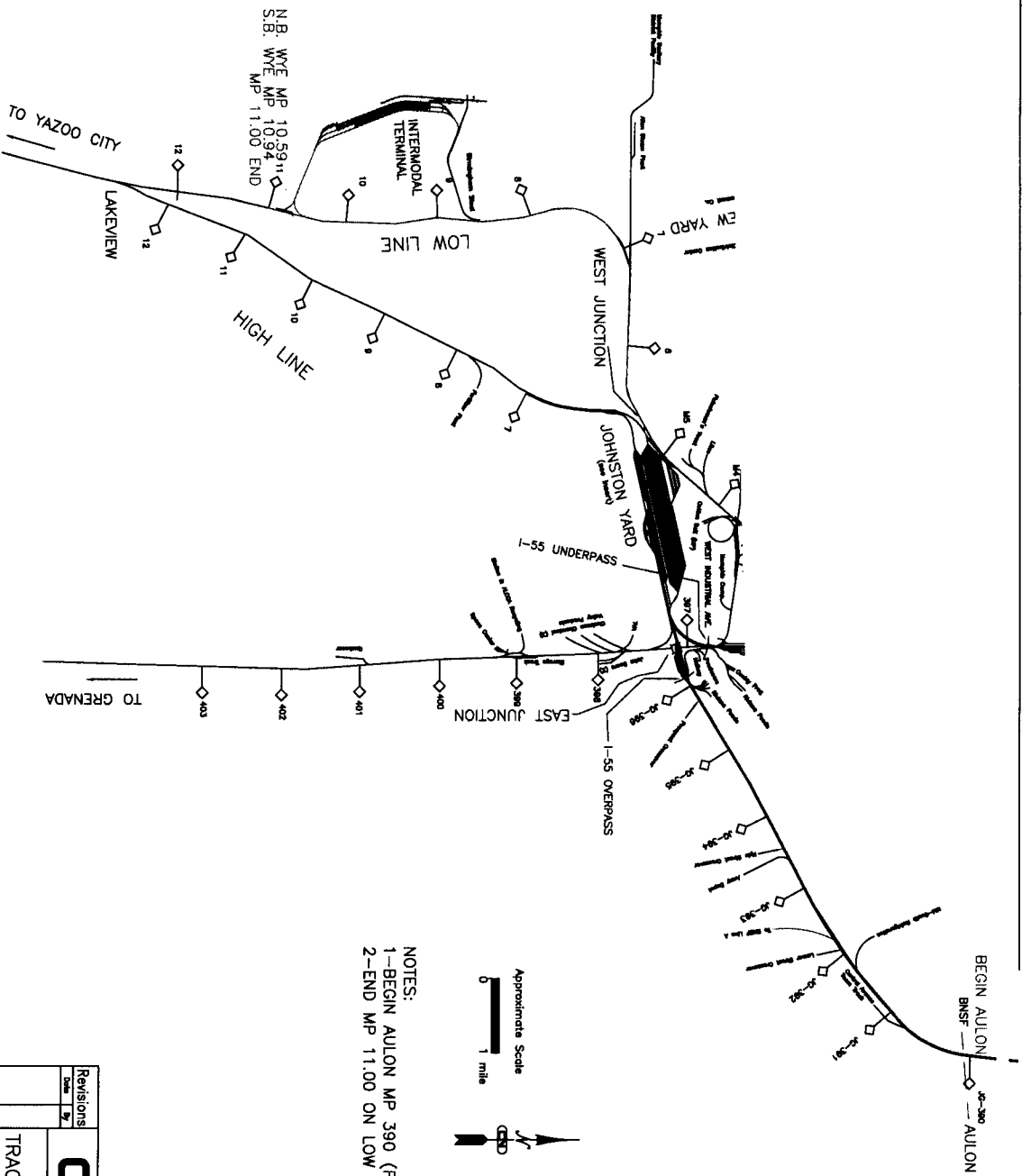


EXHIBIT A



NOTES:
 1-BEGIN AULON MP 390 (FULTON SUB)
 2-END MP 11.00 ON LOW LINE (YAZOO SUB)

Revisions		CN U.S. REGION CENTRAL DIVISION MEMPHIS TERMINAL
Date	By	
TRACKAGE AGREEMENT CN & CSX EXHIBIT A		OFFICE OF FIELD ENGINEER Date: 07/16/04 By: [Signature]

EXHIBIT B

TRACKAGE RIGHTS AGREEMENT

Agreement No. 4602

between

ILLINOIS CENTRAL RAILROAD COMPANY

a wholly owned subsidiary of Canadian National Railway Company

("CN" or "Owner")

And

CSX TRANSPORTATION, INC.

("CSXT" or "User")

Relating to CSXT's Limited Trackage Rights Over

CN 's Lines Of Railroad Between

Aulon Interlocking and Memphis Intermodal Facility

THIS AGREEMENT, entered into as of this 22nd day of April 2005, by and between **ILLINOIS CENTRAL RAILROAD COMPANY**, a wholly owned subsidiary of **CANADIAN NATIONAL RAILWAY COMPANY** (hereinafter collectively referred to as "**CN**" or "**OWNER**") and **CSX TRANSPORTATION, INC.**, (hereinafter referred to as "**CSXT**" or "**USER**").

WHEREAS, CN owns and operates a segment of railroad located between Aulon Interlocking, Memphis, Tennessee and Memphis Intermodal Terminal in Frank C. Pidgeon Industrial Park, Memphis, (hereinafter referred to as "Memphis Facility"), all in the State of Tennessee; and

WHEREAS, CSXT has requested trackage rights over CN's lines of railroad between Aulon Interlocking, Memphis, Tennessee and Memphis Facility; and

WHEREAS, CN agrees to grant CSXT limited overhead trackage rights for the sole movement of intermodal traffic between Aulon Interlocking and Memphis Facility under the terms and conditions set forth herein; and

WHEREAS, CN and CSX Intermodal (CSXI), an affiliate of CSXT, have entered into separate agreements outlining the use of the facility and an option for CSXI to acquire an ownership stake in the Memphis Facility (the "Facility Use Agreement" and the "Contribution and Option Agreement", respectively);

NOW THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

SECTION 1.0

GRANT OF TRACAGE RIGHTS

1.1 Subject to the terms and conditions herein provided, Owner hereby grants to User the right to operate, in overhead freight service only, its Intermodal trains carrying intermodal traffic, locomotives, cars, and equipment with its own crews (hereinafter referred to as the "Trackage Rights") over the following segment of Owner's railroad shown on the plan attached hereto, made a part hereof and marked Exhibit "A" (hereinafter referred to as the "Subject Trackage"):

- Between the CN's Aulon Interlocking, Milepost 390 on the Fulton Subdivision, Milepost 11.00 on the Yazoo Subdivision approximately 200 feet past the south leg of wye switch into the new Memphis facility, a distance of approximately twelve (12) miles, all in the State of Tennessee, including any CN yard leads and yard tracks required to access the Memphis Facility.
- Pursuant to the terms of that certain letter agreement (the "Letter Agreement") dated October 9, 2003 by and between CN and the Memphis and Shelby County Port Commission (the "Port") the Port extended to CN the right to authorize CSXT to use, in common with CN, the track commonly known as the old

Birmingham Steel lead, which begins at Owner's milepost 8.7, continuing westward to and beyond the new turnout to the Memphis Facility, a distance of approximately one thousand (1,000) feet owned by the Port. The Letter Agreement, and the Agreement between CN and the Port dated October 23, 1996 with respect to the Birmingham Steel lead track, provides that CN and User may use the Birmingham Steel Lead track and adjacent storage tracks (the "Birmingham Lead Trackage") without charge to support the rail operations at the Memphis Facility. By executing this Agreement, User and CN acknowledge and agree that User's rights to utilize the Birmingham Lead Trackage shall be on all of the same terms and conditions as User's rights to utilize the Subject Trackage as set forth herein.

SECTION 2.0 USE OF SUBJECT TRACKAGE

2.1 User's use of the Subject Trackage shall be in common with Owner and any other user of the Subject Trackage, and Owner's right to use the Subject Trackage shall not be diminished by this Agreement. Owner shall retain the exclusive right to grant to other persons rights of any nature in the Subject Trackage.

2.2 Except as may otherwise be provided by this Agreement User shall not use any part of the Subject Trackage for the purpose of switching, storage or servicing of cars or equipment, or the making or breaking up of trains, except that nothing contained herein shall, upon prior approval of Owner, preclude the emergency use by User of such auxiliary tracks as may be designated by Owner for such purpose. The CSXT will be allowed to yard their trains, turn their locomotives on the Subject Trackage as required and when pulling from the facility the CSXT will be allowed to double their train as directed by CN's Transportation Officer.

2.3 Owner shall have exclusive control of the management and operation of the Subject Trackage. User shall not have any claim against Owner for liability account of loss or damage of any kind in the event the use of the Subject Trackage by User is interrupted or delayed at any time from any cause.

2.4 User shall have the right to operate in either direction over the Subject Trackage.

SECTION 3.0 RESTRICTION ON USE

3.1 The trackage rights herein granted are granted for the sole purpose of User using same for intermodal bridge traffic only between the terminals of Subject Trackage and User shall not perform any local freight service whatsoever at any point located on Subject Trackage.

SECTION 4.0 COMPENSATION

4.1 The factor to be used in calculating payments to be made by User for the Trackage Rights covered by this Agreement shall be eight dollars and thirty cents (\$8.30) per car, locomotive, caboose or platform (hereinafter referred to as the "Base Charge"), in either direction.

4.2 Thereafter, User will pay Owner a sum computed by multiplying: (i) the Base Charge, as may be revised in accordance with Section 4.5, by (ii) the number of cars (loaded or empty), locomotive and caboose units moved by User with its own crews and power over the Joint Trackage. For purposes of this Agreement, each locomotive unit, each caboose, and each platform of an articulated car shall be counted as one car.

4.3 With respect to articulated units, the number of cars shall be determined by the AAR Car Type Code as defined in the UMLER Specification Manual. The third character in the Car Type Code field covering codes "Q" and "S" will be the factor in determining the car count for an articulated unit. For example, AAR Car Type Code (S566) would equate to a five (5) car count as these type cars have five wells capable of handling 40' to 48' containers in each well. (Car count data for articulated units are subject to change upon development of technology to separate units by car numbers.)

4.4 User will furnish to Owner, in care of Manager Contract Compliance, or their designates, at the end of each month, a statement of the number of loaded and empty cars operated over the Joint Trackage during the month. Based on this statement, Owner will render to User a bill, computed in accordance with the provisions of this Section 4, for User's use of the Joint Trackage.

4.5 The Base Charge shall be subject to change to reflect any increases or decreases in labor, material and other costs subsequent to the base year, as hereinafter provided.

(i) The Base Charge set forth in Section 4.1 of this Agreement shall be revised effective July 1 of each year, beginning July 1, 2005 to compensate for the prior year increase or decrease in the cost of labor and material, excluding fuel, as reflected in Table A, Annual Indices of Charge-Out Prices and Wage Rates (1977=100), Series RCR, included in "AAR Railroad Cost Indexes" and supplements thereto, issued by the Association of American Railroads (hereinafter referred to as "AAR"). In making such determination, the final "Material prices, wage rates and supplements combined (excluding fuel)" index for the East District shall be used.

(ii) The Base Charge shall be revised by calculating the percentage of increase or decrease for the year to be revised based on the final index of the most recently completed calendar year as related to the final index of the calendar year prior to the most recently completed calendar year; and applying this percentage of increase or decrease to the current Base Charge to be escalated. (ii) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure for the calendar year (2003) prior to the most recently completed calendar year; "B" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure for the most recently completed calendar year (2004); and "C" to be the current Base Charge to be escalated; the revised Base Charge would be determined by the following formula:

$$B/A \times C = \text{Revised Base Charge, Rounded to Nearest Whole Cent}$$

(5 mills or more rounds up to the next cent)

(iii) In the event the base for the Annual Indexes of Charge-Out Prices and Wage Rates issued by the AAR shall be changed from the year 1977, appropriate revision shall be made. If the AAR or any successor organization

discontinues publication of the Annual Indices of Charge-Out Prices and Wage Rates, an appropriate substitute for determining the percentage of increase or decrease shall be negotiated by the parties hereto. In the absence of agreement, the matter will be referred to the Surface Transportation Board for determination. In the event said Board is without jurisdiction to make such a determination, the parties shall submit the matter to binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator so appointed by said Association shall be final and binding upon the parties hereto. Each party to the arbitration shall pay the compensation, costs, fees, and expenses of its own witnesses, exhibits, and counsel. The compensation, costs, and expenses of the arbitrator shall be borne equally by such parties.

SECTION 5.0 PAYMENT OF BILLS

5.1 All payments called for under this Agreement shall be made by User within sixty (60) days after receipt of bills therefore. No payments shall be withheld because of any dispute as to the correctness of items in the bills rendered, and any discrepancies reconciled between the parties hereto shall be adjusted in the accounts of a subsequent month.

5.2 The records of each party hereto, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other party for a period of two (2) years from the date of billing.

5.3 Bills rendered pursuant to the provisions of this Agreement, other than those set forth in Section 4, shall include direct labor and material costs, together with the surcharges, overhead percentages, and equipment rentals in effect at the time any work is performed by Owner for User.

SECTION 6.0 MAINTENANCE OF SUBJECT TRACKAGE

6.1 Owner shall maintain, repair, and renew the Subject Trackage at its own expense and with its own supervision and labor. Owner shall keep and maintain the Subject Trackage in reasonably good condition for the use herein contemplated, but Owner does not guarantee the condition of the Subject Trackage or that operations there over will not be interrupted. Owner shall take all reasonable steps to ensure that any interruptions will be kept to a minimum. Furthermore, except as may be otherwise provided in Section 12 hereof, User shall not by reason of failure or neglect on the part of Owner to maintain, repair, or renew the Subject Trackage, have or make any claim or demand against Owner or its parent corporation, subsidiaries or affiliates, or their respective directors, officers, agents or employees for any injury to or death of any person or persons whomsoever, or for any damage to or loss or destruction of any property whatsoever, or for any damages of any nature suffered by User resulting from any such failure or neglect.

6.2 Owner shall also perform, at the expense of User, such additional maintenance as User may reasonably require or request.

SECTION 7.0 CONSTRUCTION AND MAINTENANCE OF CONNECTIONS

7.1 Existing connections or facilities which are jointly used by the parties hereto under existing agreements or practices shall continue to be maintained, repaired, and renewed by and

at the expense of the party or parties responsible for such maintenance, repair, and renewal under such agreements or practices.

7.2 Any additional connections to the Subject Trackage which may be required shall be subject to the Owner's approval (including design) and shall be constructed, maintained, repaired, and renewed as follows:

- (i) User or others shall furnish all labor and material and shall construct, maintain, repair, and renew at its sole cost, liability and expense such portions of the tracks located on the right-of-way of User or others which connect the respective lines of the parties hereto; and
- (ii) Owner shall furnish all labor and material and shall construct, maintain, repair, and renew at the sole cost, liability and expense of User such portions of the tracks located on the right-of-way of Owner which connect the respective lines of the parties hereto.
- (iii) Upon termination of this Agreement, Owner may at its option remove portion of trackage and appurtenances located on property of Owner, at the sole cost and expense of User. The salvage material removed shall be released to User or, as otherwise agreed upon, Owner will credit User the current fair market value for said salvage.

SECTION 8.0

ADDITIONS, RETIREMENTS AND ALTERATIONS

8.1 Owner, from time to time and at its sole cost and expense, may make such changes in, additions and betterments to, and retirements from the Subject Trackage as shall, in its judgment, be necessary or desirable for the economical or safe operation thereof or as shall be required by any law, rule, regulation, or ordinance promulgated by any governmental body having jurisdiction, providing such additions, betterments or retirements shall not unreasonably or unduly impair User's operation as herein contemplated. Such additions and betterments shall become a part of the Subject Trackage and such retirements shall be excluded from the Subject Trackage.

8.2 If User requests Owner to make changes in or additions and betterments to the Subject Trackage, including without limitation changes in communication or signal facilities, for purposes required to accommodate User's operations beyond that required for Owner's operation, Owner shall have the option to either make such changes in or additions and betterments to the Subject Trackage and User shall pay to Owner the cost thereof, including the annual expense of maintaining, repairing, and renewing such additional or altered facilities, or to deny such request

SECTION 9.0

MANAGEMENT AND OPERATIONS

9.1 When operating over the Subject Trackage, User's locomotives and crews will be equipped to communicate with Owner on radio frequencies normally used by Owner in directing train movements on the Subject Trackage.

9.2 Procedures for qualification and occupancy of the Subject Trackage will be arranged by the local supervision of each carrier. All control and usage will be subject to the approval of Owner's representative or his designee.

9.3 Before its locomotives enter onto the Subject Trackage, User shall request permission from Owner's dispatcher or other designated representative at Homewood, Illinois or such other location as Owner may designate. Further, User shall ascertain that said Subject Trackage is clear and shall await confirmation from said representative that such permission has been issued to allow User's movements on or over the Subject Trackage. Upon completing its operations and clearing the Subject Trackage, User will notify Owner's designated representative that it has completed its operations and that its equipment has cleared the Subject Trackage. Once User has notified Owner's representatives that it has cleared the Subject Trackage, User shall not reenter the Subject Trackage without again obtaining permission from Owner's representative. User shall provide and maintain at its expense all communication facilities needed as may be required by Owner to permit User to use Owner's trackage.

9.4 User shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Acts, as amended, and all other federal and state laws, regulations, and rules respecting the operation, condition, inspection, and safety of its trains, locomotives, cars, and equipment while such trains, locomotives, cars, and equipment are being operated over the Subject Trackage. User shall indemnify, protect, defend, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, and employees from and against all fines, penalties, and liabilities imposed upon Owner or its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, or employees under such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, when attributable to the failure of User to comply with its obligations in this regard.

9.5 User, in its use of the Subject Trackage, will comply in all respects with the safety rules, operating rules and other regulations of Owner, and the movement of User's trains, locomotives, cars, and equipment over the Subject Trackage shall at all times be subject to the orders of the transportation officers of Owner. User's trains shall not include locomotives, cars or equipment which exceed the width, height, weight or other restrictions or capacities of the Subject Trackage as published in Railway Line Clearances, and no train shall contain locomotives, cars or equipment which require speed restrictions or other movement restrictions below the authorized freight speeds as provided by Owner's operating rules and regulations without the prior consent of Owner. User shall indemnify, protect, defend, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all their directors, officers, agents and employees from and against all liabilities when attributable to the failure of User to comply with the provisions of this subsection.

9.6 All employees of User engaged in or connected with the operations of User on or along the Subject Trackage shall be required to pass periodic examinations on the rules of Owner related to the Subject Trackage, provided, with respect to such examinations that, upon request of User, Owner shall qualify one or more of User's supervisory officers on Owner's rules and such supervisory officer or officers so qualified shall examine all employees of User engaged in or connected with User's operations on or along the Subject Trackage. Pending qualification of train and engine crews of User, Owner shall furnish a pilot or pilots, at the expense of User, as deemed necessary by Owner, to assist in operating trains of User over the Subject Trackage. User shall pay to Owner, upon receipt of bills therefore, any cost incurred by Owner in connection with the qualification of such employees of User, as well as the cost of pilots furnished by Owner, until such time as such employees are deemed by the appropriate examining officer of Owner to be properly qualified for operation as herein contemplated.

9.7 Owner may conduct an investigation at its option if a User's employee working on Owner's property is alleged to have violated Owner's rules, regulations, orders, practices or instructions, or if an incident occurs which requires an investigation under applicable agreement

rules. To exercise its option, Owner will schedule the investigation and notify User's Local Transportation Officer in the territory thereof, who will, in turn, arrange to issue proper notice to the User's employee(s) of the investigation. Such investigation or hearing may be attended by any official designated by User, and any such investigation or hearing shall be conducted in accordance with the collective bargaining agreements, if any, that pertain to User's employee or employees required to attend such hearings. Owner's scheduling of the investigation must comply with the time limits provided in the applicable agreement on User's railroad. Owner will provide its regulations, supplements, and safety rules to User at no cost. After the investigation is concluded, Owner will promptly furnish User with two copies of the transcript and a recommendation as to the discipline to be assessed. User's Transportation Officer will arrange to assess discipline, subject to receipt of Owner's recommended discipline, within the applicable time limits. If Owner recommends dismissal, User reserves the right to change the recommendation to the extent of barring the individual from operating over Owner's territory.

9.8 If Owner conducts an investigation, Owner shall have the right to exclude from the Subject Trackage any employee of User, except officers, determined by Owner as the result of Owner's investigation or hearing described below, to be in violation of Owner's rules, regulations, orders, practices or instructions issued by Owner's Timetable or otherwise. User shall release, indemnify, protect, defend, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all their directors, officers, agents and employees from and against any and all claims and expenses resulting from such exclusion.

9.9 In a major offense such as violation of Rule G, dishonesty, insubordination, or a serious violation of operating rules, wherein Owner desires to bar User's employee from service on Owner's territory pending an investigation by Owner, immediate verbal notification will be given to the appropriate Transportation Officer of User so that proper written notice can be issued to the employee.

9.10 It is understood that Owner shall reimburse User for all payments that User might be required to make as a result of a successful challenge being made by the employee or his representative as to the discipline recommended by Owner and assessed by User. User agrees to notify Owner before committing itself to making payment of any claim. In the event a claim is progressed to an Adjustment Board, Owner will be given an opportunity to review User's submission. Any payments made to employees, as a result of an investigation being "overturned", shall include not only actual wages, but in addition, shall include expenses which User may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

9.11 The trains, locomotives, cars, and equipment of User, Owner, and any other present or future user of the Subject Trackage or any portion thereof shall be operated without prejudice or partiality and in such manner as will afford the most economical and efficient manner of movement of all traffic.

9.12 If by reason of any mechanical failure, insufficient hours of service remaining among User's crew, or for any other cause not resulting from an accident or derailment, a train or locomotive of User becomes stalled or unable to proceed under its own power, or fails to maintain the speed required by Owner on the Subject Trackage, or if in emergencies crippled or otherwise defective cars are set out of User's trains on the Subject Trackage, Owner shall have the option to furnish motive power or such other assistance (including but not limited to the right to recrew User's train) as may be necessary to haul, help, or push such trains, locomotives, or cars, or to properly move the disabled equipment off the Subject Trackage, and User shall reimburse Owner for the cost of rendering any such assistance.

9.13 If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars in order to move them off the Subject Trackage, such work shall be done by Owner and User shall reimburse Owner for the cost thereof.

9.14 In the event Owner and User agree that Owner should retain employees or provide additional employees for the sole benefit of User, the parties hereto shall enter into a separate agreement under which User shall bear all cost and expense for any such additional employees, including without limitation all cost and expense associated with labor protective payments which are made by Owner and which would not have been incurred had the additional employees not been provided.

SECTION 10.0 MILEAGE AND CAR HIRE

10.1 All mileage and car hire charges accruing on cars in User's account in User's trains on the Subject Trackage shall be assumed by User and reported and paid by it directly to the owner of such cars.

SECTION 11.0 CLEARING OF WRECKS

11.1 Whenever User's use of the Subject Trackage requires rerailling, wrecking service or wrecking train service, Owner shall perform such service, including the repair and restoration of roadbed, track, and structures. The cost, liability and expense thereof, including without limitation loss of, damage to, and destruction of any property whatsoever and injury to or death of any person or persons whomsoever or any damage to or destruction of the environment whatsoever, including without limitation land, air, water wildlife, and vegetation, resulting therefrom, shall be apportioned in accordance with the provisions of Section 12 hereof. All locomotives, cars, and equipment and salvage from the same so picked up and removed which are owned by or under the management and control of or used by User at the time of such wreck shall be promptly delivered to User.

SECTION 12.0 LIABILITY

12.1 The responsibility and liability between the parties for: (i) any personal injury or death of any person (including employees of the parties and third parties), (ii) any real or personal property damage of any person (including property of the parties and third persons), (iii) any damage or destruction to the environment (including land, air, water, wildlife and vegetation), and (iv) all cleanup and remedial expenses, court costs, litigation expenses and attorney's fees resulting from the use of the Subject Trackage by the parties to this Agreement or by third party users, all of which are collectively referred to as a "Loss", will be divided as follows:

- (a) If a Loss results from the use of the Subject Trackage solely by the trains and locomotives of one of the parties to this Agreement, then that using party shall be solely responsible for the Loss, even if caused partially or completely by the other party.
- (b) If a Loss results from the use of the Subject Trackage by the trains and locomotives of both CN and CSXT, then: (i) each of CN and CSXT is solely responsible for any Loss to its own employees, locomotives and equipment in its own account including lading and (ii) CSXT and CN are equally responsible for any Loss to the Subject Trackage and Loss sustained by third parties, regardless of the proportional responsibility between or among them as to the cause of the Loss.

- (c) If a Loss results from the use of the Subject Trackage by trains and locomotives of both CSXT and any other third party user of the Subject Trackage not a party to this Agreement, then CSXT's responsibility for the Loss shall be apportioned in the manner specified in Subsection (b) with the other third party user being considered CN for the purpose of determining CSXT's share of that portion of the Loss which it must assume.
- (d) Whenever any liability, cost, or expense is assumed by or apportioned to any party to this Agreement hereto under the foregoing provisions, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its subsidiaries and affiliates, and all of its respective directors, officers, agents, and employees from and against that liability, cost, and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitee or its directors, officers, agents or employees.
- (e) In every case of death or injury suffered by an employee of any party to this Agreement, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employer's liability, or other law, and either of said parties under the provisions of this Agreement is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.
- (f) For purposes of determining liability, pilots furnished by CN to CSXT pursuant to this Agreement shall be considered as the employees of CSXT while such employees are on board or getting on or off trains of CSXT.
- (g) If any suit or action shall be brought against any party for damages which under the provisions of the Agreement are in whole or in part the responsibility of the other party, said other party shall be notified in writing by the party sued, and the party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay a proportionate part of the judgment and cost, expense and attorneys' fees incurred in such suit according to its liability assumed hereunder.
- (h) In the event of a Loss as set out herein, the parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads (AAR) as to the handling of any claims for the loss or damage to lading.
- (i) Notwithstanding the provisions of Section 18.5 of this Agreement, for the purposes of this Section 12 the word "equipment" shall mean and be confined to (i) trains, locomotives, cars and cabooses, (ii) vehicles and machinery which are capable of being operated on railroad tracks that, at the time of an occurrence, are being operated on the Subject Trackage, and (iii) vehicles and machinery that, at the time of an occurrence, are on the Subject Trackage or its right-of-way for the purpose of the maintenance or repair thereof or the clearing of wrecks thereon.
- (j) For the purpose of determining liability associated with construction, maintenance, repair and renewal of connections as provided in Section 7, all work performed by Owner shall be deemed performed for the sole benefit of User and, User shall be fully liable for all cost and expense of any and all loss, damage, destruction, injury and death resulting from, arising out of, incidental to or occurring in connection with

said construction, maintenance, repair and renewal except when such cost and expense of loss, damage, destruction, injury or death is caused by the sole negligence of Owner. User shall protect, indemnify, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents and employees from and against any and all expense and liability for which User is responsible.

SECTION 13.0 INVESTIGATION AND CLAIMS

13.1 Except as provided in Subsection 13.2 hereof, all claims, injuries, deaths, property damages, and losses arising out of or connected with this Agreement shall be investigated, adjusted, and defended by the party bearing the liability, cost, and expense therefor under the provisions of this Agreement.

13.2 Each party will investigate, adjust, and defend all freight loss and damage claims filed with it in accordance with 49 U.S.C. Section 11706 and 49 C.F.R. Section 1005 (or any revised or substitute regulations adopted to modify, supplement or supersede the regulations herein provided), or in accordance with any applicable transportation contract entered into pursuant to 49 U.S.C. Section 10709.

13.3 In the event a claim or suit is asserted against Owner or User which is the other's duty hereunder to investigate, adjust, or defend, then, unless otherwise agreed, such other party shall, upon request, take over the investigation, adjustment, and defense of such claim or suit.

13.4 All costs and expenses in connection with the investigation, adjustment, and defense of any claim or suit under this Agreement shall be included as costs and expenses in applying the liability provisions set forth in this Agreement, except that salaries or wages of full-time employees, including claim agents, attorneys, and other employees of either party engaged directly or indirectly in such work shall be borne by such party.

13.5 Excluding freight loss and damage claims filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005 or similar regulation, neither party shall settle or compromise any claim, demand, suit, or cause of action for which the other party has any liability under this Agreement without the concurrence of such other party if the consideration for such settlement or compromise exceeds thirty-five thousand dollars (\$35,000).

13.6 Each party agrees to indemnify and hold harmless the other party and its parent corporation, subsidiaries and affiliates, and all their respective directors, officers, agents and employees from and against any and all costs and payments, including benefits, allowances and arbitration, administrative and litigation expenses, arising out of claims or grievances made by or on behalf of its own employees, pursuant to a collective bargaining agreement. It is the intention of the parties that each party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employee arising under its collective bargaining agreements with its employees.

13.7 It is understood that nothing in this Section 13 shall modify or waive the conditions, obligations, assumptions or apportionments, or supersede the provisions of Section 12 hereof.

SECTION 14.0 DEFAULT AND TERMINATION

14.1 In the event of any substantial failure on the part of User to perform its obligations under this Agreement and its continuance in such default for a period of sixty (60) days after written notice thereof by certified mail from Owner, Owner shall have the right at its option, after

first giving thirty (30) days' written notice thereof by certified mail; and notwithstanding any waiver by Owner of any prior breach thereof, to terminate the Trackage Rights and User's use of the Subject Trackage. The exercise of such right by Owner shall not impair its rights under this Agreement or any cause or causes of action it may have against User for the recovery of damages.

SECTION 15.0 ARBITRATION

15.1 Except for matters concerning loss or destruction of, or damage to freight, or injury or death of persons, any irreconcilable dispute arising between the parties with respect to this Agreement shall be settled through final and binding arbitration. The parties shall jointly submit the matter to final and binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator(s) shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator(s), if any, shall be borne equally by the parties hereto. Arbitrators shall not award consequential or punitive damages.

SECTION 16.0 REGULATORY APPROVAL

16.1 Should implementation of this Agreement require the prior approval and authorization of the Surface Transportation Board ("STB"), User, at its own cost and expense, will initiate and thereafter diligently prosecute an action to obtain such approval and authorization or an exemption therefrom. Owner will assist and support efforts of User to obtain any such required approval and authorization or exemption.

16.2 Each party shall assume and hold the other party harmless from all employee claims predicated on loss of, or adverse impact on, compensation, benefits or working conditions arising from this Agreement or the activities of the parties hereunder, whether such claims are based on conditions imposed by the STB or predicated on the Railway Labor Act or labor agreements.

16.3 Should the STB at any time during the term of this Agreement impose any labor protective conditions upon the arrangement; User, solely, shall be responsible for any and all payments in satisfaction of such conditions.

SECTION 17.0 ABANDONMENT OF SUBJECT TRackage

17.1 Notwithstanding the provisions of Section 21 of this Agreement, Owner may abandon the Subject Trackage during the term of this Agreement, or any renewals hereof, upon giving User not less than ninety (90) days' written notice of Owner's intent to abandon. In the event regulatory authority is required to effect such abandonment, User will not interfere with Owner's actions to seek and to exercise such authority. In the event regulatory authority is required for User to discontinue its own operations over the Subject Trackage, User will seek and diligently pursue such regulatory authority at the same time that Owner seeks regulatory authority to abandon the Subject Trackage, or as soon thereafter as User may do so in accordance with applicable statutes and regulations, unless User intends to acquire the Subject Trackage from Owner pursuant to 49 U.S.C. Section 10904 or other similar provision. User hereby expressly reserves the right pursuant to 49 U.S.C. Section 10904 or any similar provision which may be in effect to subsidize operations on or to acquire the Subject Trackage. Unless User or another party acquires the Subject Trackage for continued rail use or subsidizes Owner's operations thereon, User shall exercise its authority to discontinue its operations pursuant to this Agreement upon the date established by Owner for abandonment of the Subject Trackage by its aforesaid notice to

User, or upon the earliest authorized date of exercise of the regulatory authority to discontinue operations, whichever is later. If regulatory authority for discontinuance of User's operations is not required, User shall discontinue its operations hereunder on the date that Owner is authorized to abandon the Subject Trackage. Upon discontinuance of User's operations, this Agreement shall terminate and be of no further force and effect, except that termination of this Agreement shall not relieve or release either party hereto from any obligations assumed or from any liability which may have arisen or been incurred prior to said termination. As used herein, Subject Trackage means the entire Subject Trackage or any portion or portions thereof.

SECTION 18.0 GENERAL PROVISIONS

18.1 This Agreement and each and every provision hereof are for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right in any third party to recover by way of damages or otherwise against either of the parties hereto.

18.2 All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

18.3 This Agreement and the attachments annexed hereto and integrated herewith contain the entire agreement of the parties hereto and supersede any and all oral understandings between the parties.

18.4 No term or provision of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.

18.5 As used in this Agreement, whenever reference is made to the trains, locomotives, cars, or equipment of, or in the account of, one of the parties hereto such expression means the trains, locomotives, cars, or equipment in the possession of or operated by one of the parties and includes such trains, locomotives, cars, or equipment which are owned by, leased to, or in the account of such party. Whenever such locomotives, cars or equipment are owned or leased by one party to this Agreement and are in the possession or account of the other party to this Agreement, such locomotives, cars, and equipment shall be considered those of the other party under this Agreement.

18.6 All words, terms, and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms, and phrases in the railroad industry.

18.7 This agreement is the result of mutual negotiations of the parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

18.8 Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a party hereto to enforce its rights under this Agreement, during the initial and any renewal term of this Agreement, all commercial information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either CN or CSXT to any party other than CN's and CSXT's affiliates and the respective officers, employees, and attorneys of those affiliates, without the prior written approval of the other party.

SECTION 19.0 **SUCCESSORS AND ASSIGNS**

19.1 CSXT shall not transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder, by merger or otherwise, to any person, firm, or corporation without obtaining the prior written consent of CN.

SECTION 20.0 **NOTICE**

20.1 Any notice required or permitted to be given by one party to the other under this Agreement shall be deemed given on the date sent by certified mail, or by such other means as the parties may mutually agree, and shall be addressed as follows:

If to Owner:

Joint Facility Contracts and Administration
Canadian National Railway Company
17641 South Ashland Avenue
Homewood, IL 60430

If to User:

AVP Passenger & Joint Facilities
CSX Transportation, Inc.
500 Water St., J315
Jacksonville, FL 32202

20.2 Either party may provide changes in the above addresses to the other party by personal service or certified mail.

SECTION 21.0 **COMMENCEMENT, TERM AND TERMINATION**

21.1 This Agreement shall take effect on the date User commences operations over the Subject Trackage (which date is referred to herein as the "Commencement Date"). The Commencement Date shall not be prior to the effective date of any required regulatory approvals, and shall be evidenced by an exchange of correspondence between the appropriate operating officers of the parties hereto.

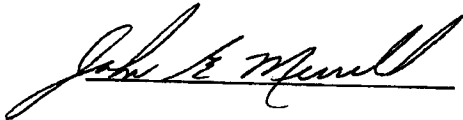
21.2 This Agreement shall continue in full force and effect so long as the Facility Use Agreement remains in effect, provided, however, that this Trackage Rights Agreement will not terminate if the Facility Use Agreement is terminated in connection with the closing of User's exercising its right to purchase an interest in the Memphis Facility pursuant to the Contribution and Option Agreement, in which case this Agreement shall continue for so long as User retains an ownership interest in the Memphis Facility. In the event that User is no longer a part owner of the Memphis Facility, this Agreement shall terminate upon a sale or other transfer of User's interest in the Memphis Facility. User shall have the right to terminate this Agreement upon giving sixty (60) days' advance notice to the Owner.

21.3 Termination of this Agreement shall not relieve or release either party hereto from any obligations assumed or from any liability which may have arisen or been incurred by either party under the terms of this Agreement prior to the termination hereof.

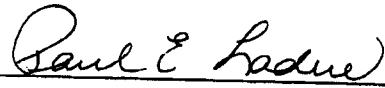
21.4 Upon termination or non-renewal of this Agreement, or for any other reason, User shall within sixty (60) days initiate and thereafter diligently prosecute any action to obtain approval from the Surface Transportation Board (STB) or other regulatory body having jurisdiction authorizing abandonment or discontinuance of the Trackage Rights herein granted. If User fails to file within (60) days, User hereby expressly authorizes Owner to file with the STB, or other regulatory body having jurisdiction, on behalf of User to abandon or discontinue the Trackage Rights granted hereunder, and User further agrees to reimburse Owner for all costs incurred.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate as of the day and year first hereinabove written.

WITNESS



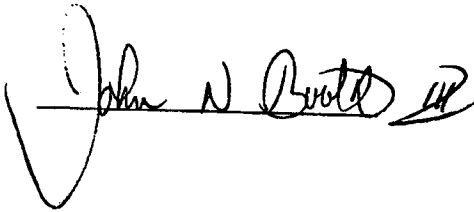
**ILLINOIS CENTRAL RAILROAD
COMPANY**, on behalf of itself and the
Canadian National Railroad Company

By: 

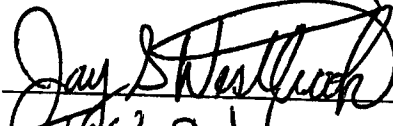
Paul E. Ladue

Region Director Contracts and Administration

WITNESS



CSX TRANSPORTATION, INC.

By: 
JAY S. WESTBROOK
Print Name

Title: AVP PASSENGER & TOWN
FACILITIES CONTRACTS

EXHIBIT C

CAPTION SUMMARY

FINANCE DOCKET NO. 34701

**CSX TRANSPORTATION, INC.
TRACKAGE RIGHTS IN MEMPHIS, TENNESSEE
ILLINOIS CENTRAL RAILROAD COMPANY**

Illinois Central Railroad Company, on behalf of itself and the Canadian National Railroad Company, has agreed to grant CSX Transportation, Inc. overhead trackage rights (1) between CN's Aulon Interlocking, Milepost 390 on the Fulton Subdivision and Milepost 11.00 on the Yazoo Subdivision, approximately 200 feet past the south leg of wye switch into the Memphis Intermodal Terminal in Frank C. Pidgeon Industrial Park ("Memphis Facility"), a distance of approximately twelve miles, all in the State of Tennessee, including the CN yard lead and yard tracks required to access the Memphis Facility; and (2) the track commonly referred to as the old Birmingham Steel lead (owned by the Shelby County Port Authority and operated by CN), which begins at CN's Milepost 8.7, continuing westward to and beyond the new turnout to the Memphis Facility, a distance of approximately one thousand (1,000) feet. The trackage rights will be effective on May 10, 2005.

This notice is filed under Section 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated:

By the Board.

Vernon A. Williams,

Secretary

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